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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,023	07/10/2001	Walter H. Mawby	2051-00101	9285

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EXAMINER

TRAN, KHOA H

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,023

Applicant(s)

MAWBY ET AL.

Examiner

Khoa Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4 and 15-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 2/19/03 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Drawings

The proposed drawings correction and/or the proposed substitute sheets of drawings, filed on February 19, 2003 have been approved.

However, the drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "a plurality of parallel, adjacent, poured-in-place tunnels, each tunnel including a transverse drive aisle opening therethrough"; "a plurality of first tunnel walls having a first length, said drive aisle openings in said first tunnel walls being wider than said drive aisle; and a plurality of second tunnel walls having a second length, said second length being less than said first length"; "an interface level comprising a plurality of parallel, adjacent, poured-in-place tunnels"; "a plurality of third tunnel walls vertically aligned with said first tunnel walls and having a third length, said third length being at least as great as said first length"; "a plurality of fourth tunnel walls vertically aligned with said second tunnel walls and having a fourth length, said fourth length being at least as great as said second length" and " a superstructure comprising a plurality of parallel, adjacent, poured-in-place tunnels having walls that are each vertically aligned with one of said first and second tunnel walls" in claims 15 and 20; "said first and second tunnel walls has an inner end and an outside end and the drive aisle openings in said first tunnel walls extend as far from said first tunnel wall first ends as the distance between said second tunnel walls first ends and said second tunnel wall second ends" in claims 16 and 21 and "each first tunnel wall is separated from another first tunnel wall by a pair of

second tunnel walls, in claims 17 and 22 must be shown or the features canceled from the claim. No new matter should be entered.

Applicants are required to submit a proposed drawing correction in reply to this Office action.

Claim Objections

Claim 14, line 1, "15" should be --20-- in order to make sense because the claim is a method claim and it should be depended from a method claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, and 15-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. ('496) in view of Cerutti et al. Stewart et al. ('496) disclose a multi-story dwelling (500) of multiple rectangular box-like concrete "tunnel" comprising a substructure of a parking garage (531) and a superstructure of a residential place (561); the parking garage having at least two drive ways (518a and 518b), a center aisle parking tunnel (542, 544) and two sides aisle parking (534, 536) tunnel, see Figure 14, the first and third tunnels each set having four parking spaces

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with a length dimension that is wider than the drive aisle; the second and fourth tunnels each set having two parking spaces with a length that is less than the first length; the center aisle tunnel is separate from the opposite center aisle tunnel by a pair of tunnel walls to form a stairway (526, 546) or a corridor (562) in between. Cerutti et al. teach a method of poured-in-place concrete tunnel, see claimed 12. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize a well-known and notoriously old method of poured-in-place concrete to form tunnels as taught by Cerutti et al. in order to prevent flotation of the concrete since it is well-within the level of skill in the art to utilize the known features of the art for the purpose for which they are known.

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. Kelbish, Stewart et al. ('704), Willingham, J. E. Tourtellotte, Fencel, Aubry, Kahan, F. Singer, Coetjen, Torok, and Schimmel are cited to show similar configurations of design.

Response to Amendment

Applicants' arguments with respect to claims 2, 4, and 15-24 have been considered but are moot in view of the new grounds of rejection.

The new grounds of rejection were necessitated by applicants' amendment, e.g., "a plurality of first tunnel walls having a first length, said drive aisle openings in said first tunnel walls being wider than said drive aisle; and a plurality of second tunnel walls

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having a second length, said second length being less than said first length” in claims 15 and 20, lines 5-8.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 8:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

If the applicant is submitted by facsimile transmission, applicant is hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the

Patent and Trademark Office:

Fax No. _____ On _____

(Date)

Type or printed name of person signing this certificate:

(Signature)

Furthermore, please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Khoa Tran
May 12, 2003

A handwritten signature in black ink, reading "Daniel P. Stodola". The signature is written in a cursive, flowing style with a large initial 'D'.

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600